

ASSEMBLY BILL

No. 566

Introduced by Assembly Member Wieckowski

February 20, 2013

An act to add Section 71621 to the Government Code, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 566, as introduced, Wieckowski. Courts: personal services contracting.

The Trial Court Employment Protection and Governance Act establishes a trial court employee personnel system that provides authority to hire trial court personnel, regulates the classification and compensation of trial court employees, labor relations, and personnel files, and requires each trial court to establish a system of employment selection and advancement and an employment protection system.

Existing law authorizes state agencies to use personal services contracts to achieve cost savings if specified standards are satisfied, including, among other things, the contract does not cause the displacement of civil service employees and the contract is awarded through a publicized, competitive bidding process. The State Personnel Board is required to review a proposed contract upon the request of an employee organization for compliance with those standards.

This bill would establish specified standards if a trial court intends to contract for any services that are currently or customarily performed by trial court employees. Among other things, the bill would require the trial court to clearly demonstrate that the contract will result in actual overall cost savings to the trial court for the duration of the entire contract as compared with the trial court's actual costs of providing the

same services. The bill would require a contract for services in excess of \$100,00 annually to include specific, measurable performance standards and provisions for audits on performance and cost savings, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 71621 is added to the Government Code,
2 to read:
3 71621. (a) If a trial court intends to contract for any services
4 that are currently or customarily performed by trial court
5 employees, all of the following requirements shall apply:
6 (1) The trial court shall clearly demonstrate that the contract
7 will result in actual overall cost savings to the trial court for the
8 duration of the entire contract as compared with the trial court's
9 actual costs of providing the same services. In comparing costs,
10 all of the following shall occur:
11 (A) The trial court's additional cost of providing the same
12 services as proposed by the contract shall be included. These
13 additional costs shall include the salaries and benefits of additional
14 staff that would be needed and the cost of additional space,
15 equipment, and materials needed to perform the services.
16 (B) The trial court's indirect overhead costs shall not be included
17 unless those costs can be attributed solely to the function in
18 question and would not exist if that function was not performed
19 by the trial court. For purposes of this subparagraph, "indirect
20 overhead costs" means the pro rata share of existing administrative
21 salaries and benefits, rent, equipment costs, utilities, and materials.
22 (C) The cost of a contractor providing a service for any
23 continuing trial court costs that would be directly associated with
24 the contracted function shall be included. Continuing trial court
25 costs shall include, but not be limited to, costs for inspection,
26 supervision, and monitoring.
27 (2) The contract shall not be approved solely on the basis that
28 savings will result from lower contractor pay rates or benefits.
29 Contracts shall be eligible for approval if the contractor's wages
30 are at the industry's level and do not undercut trial court pay rates.

1 (3) The contract shall not cause an existing trial court employee
2 to incur a loss of his or her employment or employment seniority,
3 a reduction in wages, benefits, or hours, or an involuntary transfer
4 to a new location requiring a change in residence.

5 (4) The contract shall be awarded through a publicized,
6 competitive bidding process.

7 (5) The contract shall include specific provisions pertaining to
8 the qualifications of the staff that will perform the work under the
9 contract, as well as assurances that the contractor's hiring practices
10 meet applicable nondiscrimination standards.

11 (6) The contract shall provide that it may be terminated at any
12 time by the trial court without penalty if there is a material breach
13 of the contract and notice is provided within 30 days of termination.

14 (7) If the contract is for services in excess of one hundred
15 thousand dollars (\$100,000) annually, all of the following shall
16 occur:

17 (A) The trial court shall require the contractor to disclose all of
18 the following information as part of its bid, application, or answer
19 to a request for proposal:

20 (i) A description of all charges, claims, or complaints filed
21 against the contractor with a federal, state, or local administrative
22 agency during the prior 10 years.

23 (ii) A description of all civil complaints filed against the
24 contractor in a state or federal court during the prior 10 years.

25 (iii) A description of all state or federal criminal complaints or
26 indictments filed against the contractor, or any of its officers,
27 directors, or managers, at any time.

28 (iv) A description of any debarments of the contractor by a
29 public agency or licensing body at any time.

30 (B) The trial court shall include in the contract specific,
31 measurable performance standards and provisions for a
32 performance audit by the trial court, or an independent auditor
33 approved by the trial court, to determine whether the performance
34 standards are being met and whether the contractor is in compliance
35 with applicable laws and regulations. The trial court shall not renew
36 or extend the contract prior to receiving and considering the audit
37 report.

38 (C) The contract shall include provisions for an audit by the
39 trial court, or an independent auditor approved by the trial court,
40 to determine whether and to what extent the anticipated cost

1 savings have actually been realized. The trial court shall not renew
2 or extend the contract before receiving and considering the audit
3 report.

4 (8) The term of the contract shall not be more than five years
5 from the date on which the trial court approves the contract.

6 (b) This section does not preclude a trial court or the Judicial
7 Council from adopting more restrictive rules regarding the
8 contracting of court services.